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12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

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OFFICE OF PETITIONS

In re Application of :
Matthews, et al. :
Application No. 09/933,349 : ON PETITION
Filed: February 23, 2001 :
Attorney Docket No. :
06618/590001/CIT3165 :

This is a decision on the petition to revive under 37 CFR 1.137(a), filed January 7, 2004 (Certificate of Mailing dated January 5, 2004), which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is GRANTED.

A Notice of Abandonment was mailed in the above-identified application on December 1, 2003, informing applicant that the application had gone abandoned for failure to reply to a Notice to File Missing Parts mailed on June 14, 2001. A review of the application file does not indicate that a Notice to File Missing Parts was ever mailed in the above-identified application. The application file does contain a Notice to File Missing Parts of Provisional Application for application number 60/271,255. However, the above-identified application filing transmittal specifically identified the application as a filing under 37 CFR 1.53(b). The filing did not identify the application as a provisional application.

In view of the above, the Notice to File Missing Parts of Provisional Application was mailed in error and is hereby VACATED.

The holding of abandonment is WITHDRAWN.

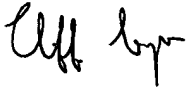
¹ See 37 CFR 1.53(c)(1).

Receipt is acknowledged of the \$385 statutory basic filing fee, the \$65 late surcharge, \$86 independent claims fee, \$40 assignment record fee, and \$55 petition fee, all filed with the instant petition. Given the basis for granting this petition, the \$55 petition fee has been refunded to Deposit Account No. 06-1050.

Receipt of the 37 CFR 1.63 declaration, also filed with the instant petition, is acknowledged.

The application file is being forwarded to the Office of Initial Patent (OIPE) for further processing. Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 305-0272.



Cliff Congo
Petitions Attorney
Office of Petitions